

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RICARDO SOTOLONGO AGUIRRE,

Plaintiff,

v.

Case No. 05-C-948

KENOSHA COUNTY JAIL, KENOSHA
COUNTY CORRECTIONAL HEALTH
SERVICES, and CORPORAL KURT
MIQUTIS,

Defendants.

ORDER

On June 7, 2006, the defendants in this matter filed a motion to dismiss for failure to prosecute. Pursuant to Civil Local Rule 7.1(b), the plaintiff, Ricardo Sotolongo Aguirre (“Aguirre”), had 21 days, or until June 28, 2006, to file his response. Aguirre did not file a response on or before June 28, 2006. Bearing in mind that Aguirre is proceeding pro se, on July 5, 2006, this court entered an order extending the time for Aguirre to respond up to and including July 21, 2006. In that order, this court expressly stated that, “[i]f no response is filed the court will consider Aguirre to have waived his right to file a response. The plaintiff is hereby notified that, should he fail to file a response, the court will consider his failure to do so as evidence of failing to diligently prosecute the action, and in accordance with Civil Local Rule 41.3, will dismiss the action.” To date Aguirre has not filed a response.

Aguirre’s failure to respond to the defendants’ motion to dismiss and to this court’s order makes it abundantly clear that he is not diligently prosecuting this action. Therefore, the defendants’

motion to dismiss for failure to prosecute will be granted and this action will be dismissed. The dismissal, however, will be without prejudice. Furthermore, consistent with the provisions of Civil Local Rule 41.3, Aguirre can petition for reinstatement of the action within 20 days of the date of this order.

NOW THEREFORE IT IS ORDERED that the defendant's motion to dismiss be and hereby is **GRANTED**;

IT IS FURTHER ORDERED that this action be and hereby is **DISMISSED WITHOUT PREJUDICE**;

IT IS FURTHER ORDERED that the plaintiff can petition for reinstatement of the action within 20 days of the date of this order.

SO ORDERED this 24th day of July 2006, at Milwaukee, Wisconsin.

/s/ William E. Callahan, Jr.
WILLIAM E. CALLAHAN, JR.
United States Magistrate Judge